REMARKS/ARGUMENTS

The rejections presented in the Office Action dated April 8, 2009 (hereinafter Office Action), have been considered. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Without acquiescing to characterizations of the asserted art, Applicant's claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant's claimed subject matter, each of the independent claims has been amended to characterize that the music signal is analyzed in response to actual game data. Support for these changes may be found in the original specification, for example, at paragraphs [0039]-[0040] and [0044] (using the paragraph numbering of the published application) and original claim 4; therefore, the changes do not introduce new matter. Dependent claims 3 and 4 are also amended, and support for those changes may be found in the disclosure of paragraph [0044]. The pending claims are believed to be patentable over the asserted references for the reasons set forth below.

Neither of the asserted references (U.S. Patent No. 5,513,129 to Bolas *et al.* (hereinafter "Bolas") nor U.S. Publication No. 2002/0016203 by Nagata *et al.* (hereinafter "Nagata")) has been shown to teach or suggest analyzing music signal context data in response to actual game data, as now claimed. The assertion at page three of the Office Action that Bolas' Acoustic Etch and VR processor can set and control parameters of each other fails to provide correspondence to limitations directed to actual game data. The cited portion merely teaches that the VR processor can set a delay time for the music (of the Acoustic Etch) in order to compensate for the time required for the VR processor to process control signals and provide better causality between the music and the VR processor's visual images (Col. 9, lines 11-26). The delay compensation parameters are based on internal factors related to the operation of the VR processor and are not responsive to events occurring in the VR environment (asserted as corresponding to actual game data). In contrast to the claimed limitations, Bolas does not use the VR environment to generate control information. Moreover, no portion of Nagata has been shown to teach or suggest the now-claimed limitations. Since neither of the asserted references has been shown to teach or suggest analyzing music signal context data in response to actual game data, as claimed, the prior-art based rejections would be improper. Applicant accordingly requests that each of the rejections (§§ 102(b) and 103(a)) be withdrawn.

6

It should be noted that Applicant does not acquiesce to the Examiner's statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant's invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (NKO.063.WUS) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the Examiner is invited to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8500 Normandale Lake Blvd., Suite 320
Minneapolis, MN 55437
952.854.2700

Date: October 7, 2009   By: /Erin M. Nichols/

Erin M. Nichols
Reg. No. 57,125

7